

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

50956

FILE: B-183767

DATE: September 17, 1975 97510

MATTER OF: Roytran International Corporation

DIGEST:

1. Protest against sole-source award, filed 22 days after synopsis of award appeared in Commerce Business Daily, is untimely.
2. Since (1) classification of product under Federal Classification System class 17 was proper and hence synopsis in Commerce Business Daily in category 17 was proper and (2) agency had previously purchased item supplied by protester which was listed under class 17, there is no basis to conclude that protester was not on constructive notice of synopsis in Commerce Business Daily.

This concerns a protest against the award of contract No. DAAJ01-75-C-0763 by the Army Aviation Systems Command (AVSCOM) to Global Chemical Systems (Global) for reusable aircraft shipping and storage covers - National Stock No. 1730-00-138-5338. The procurement, negotiated on a sole-source basis with Global because of an urgent need for the items, was synopsized and published in the Commerce Business Daily (CBD) on January 13, 1975. The synopsis was listed under category 17 entitled "Aircraft Launching, Land and Ground Handling Equipment." The request for proposals (RFP) was issued on February 13, 1975, and proposals were to be submitted no later than February 27, 1975. After the conduct of a preaward survey on Global, award was made to it on March 31, 1975.

Roytran's protest against the award was filed on April 30, 1975. The Army argues, however, that Roytran's protest is untimely since it was filed 22 days after notice of the award to Global was published in the CBD. In a similar case, Del Norte Technology, Inc., B-182318, November 21, 1974, affirmed January 27, 1975, we held that a protest against the noncompetitive nature of a procurement filed more than 30 days after notice of the contract award was published in the CBD was untimely in accordance with 4 C.F.R. § 20.2(a) (1974), which stated that: "Protests should be filed not later than 5 days after the basis for protest is known or should have been known * * *."

Roytran argues that the holding in Del Norti is inapplicable to the instant situation and that it should not be held to constructive knowledge of the notification in the CBD since it alleges that information concerning this procurement was placed in the wrong category.

The CBD uses a total of 77 codes to classify procurement of supplies and equipment. Information regarding procurements and awards made by the Government is synopsisized in the appropriate classification. In this case, the information regarding the procurement and award was listed in section 17, "Aircraft Launching, Landing and Ground Handling Equipment." Roytran argues that this is contrary to past practice and that the subject aircraft cover systems should have been listed in section 81 which is entitled "Containers, Packaging and Packing Supplies." Roytran states that both it and other companies offering cover systems have for years scanned section 81 of the CBD for storage containers, cover systems and plastic bags. Since Roytran and other suppliers normally only study those sections of the CBD which concern products which they might offer the Government, Roytran argues that it should not be held to constructive notice of material which is improperly included in other sections of the CBD.

The Army replies that the section under which a procurement is synopsisized in the CBD is based upon the first two digits of the national stock number assigned the procured item. In this regard, ASPR § 1-1003.9(b)(4) (1974 ed.), which deals with the preparation and transmittal of the synopsis from the procuring activity to the CBD, requires the activity to state the first two digits of the four-digit code for the procurement actions classified under the Department of Defense Procurement Coding Manual. The four-digit code referred to in the Defense Procurement Coding Manual is the Federal Classification System for Services and Commodities. This system was developed and is maintained in accordance with 10 U.S.C. § 2452 (1970) by the Secretary of Defense in coordination with the Administrator of General Services, 10 U.S.C. § 2456 (1970). This system is intended to provide a single catalog system of standardizing supplies for the Department of Defense.

The basic categories of the Federal Supply Classification System are set forth in the "Federal Supply Classification Manual--Numeric Index of Classes" dated July 1970 and updated as necessary. This manual is referenced by the Department of Defense as "Cataloging Handbook, Federal Supply Classification System, H2-2."

As stated in the CBD, the two-digit code numbers to be used for supplies, equipment and materials are the same as the 77 assigned commodity groups of the Federal Supply Classification System. We note that class 1730 of the Federal Supply Classification System, as set forth on pages 41 and 42 of the Department of Defense Catalog Handbook H2-2, which is entitled "Aircraft Ground Service Equipment," includes the following items:

- Aircraft ground servicing covers
- Aircraft ground servicing cover sets
- Aircraft shipping covers
- Aircraft shipping cover sets
- Covers, aircraft ground servicing
- Covers, aircraft shipping

On the other hand, group 81, entitled "Containers, Packaging, and Packing Supplies," contains the following proviso on page 317 of the handbook:

"Note.-A chest, case, box, roll, bag, or other container, when specifically designed for the housing of a set, kit, outfit, or individual item (with or without attachments or spares) for its protection when not in use, or for the convenience of the user, is classified in the same class as the item or items for which designed, or in such other class as is appropriate. However, when the chest, case, box, roll, bag, or other container is primarily a shipping container it is classified in Group 81."

Class 8145, entitled "Specialized Shipping and Storage Containers," does, however, include reusable and repairable containers specially designed for shipping and storage of specialized equipment, i.e., shipping and storage containers for components of: aircraft, space vehicles, automotive vehicles, ships ground communication equipment, etc. Indeed, listed thereunder are shipping and storage containers for helicopters' driveshafts, rotary blades, rescue hoists, rotors and rotor hubs. It does appear, however, that this subsection of group 81 is limited to containers for components, whereas, class 1730 specifically speaks of aircraft shipping and service covers.

As such, it appears that the classification of the Global covers in class 1730 was proper as was the synopsis of the instant procurement under category 17 in the CBD. Moreover, the Army relates, in the past Driclad covers (the types supplied by Roytran)

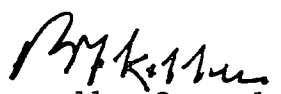
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have been purchased by AVSCOM and have been listed under class 1730 of the Federal Supply Classification System.

Based on the facts stated above, we feel there is no basis upon which to conclude that Roytran was not placed on constructive notice of the synopsis in the CBD. Accordingly, our decision in Del Norte is controlling and the Roytran protest is untimely.

Roytran argues that its protest, even if untimely, raises issues significant to procurement practices or procedures and thus should be heard by our Office on its merits in accordance with 4 C.F.R. § 20.2(b) (1974). In 52 Comp. Gen. 20 (1972), we held that: "'Issues significant to procurement practices or procedures' refers not to the sum of money involved, but to the presence of a principle of widespread interest." We do not believe that the issues raised by Roytran meet this requirement.

Accordingly, we must decline to consider Roytran's protest.


Deputy Comptroller General
of the United States